

FACTUAL HISTORY

On November 27, 2018 appellant, then a 57-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on November 21, 2018 the duties of her modified position caused a right shoulder strain and biceps tendinitis. The employing establishment controverted the claim claiming that appellant had not been in the performance of duty on November 21, 2018 as this was her scheduled day off. It also noted that this was not a claim for a traumatic injury. Appellant stopped work on November 21, 2018.

In a development letter dated December 11, 2018, OWCP informed appellant that additional factual and medical evidence was necessary to establish her claim. It advised appellant of the type of factual and medical evidence needed and provided appellant a questionnaire for her completion. OWCP advised appellant regarding the type of evidence needed and afforded her 30 days to submit the requested evidence.

On January 4, 2019 OWCP received appellant's response to the development questionnaire. Appellant advised that she was filing an occupational disease claim as she attributed her right shoulder condition to performing the duties of her modified position. She described the duties she believed caused her right shoulder pain, which included opening three doors, moving mail from the back to the front of the mail truck, and opening the back door of the mail vehicle.

By decision dated January 14, 2019, OWCP accepted appellant's occupational disease claim for right shoulder calcific tendinitis. By separate decision of even date, it denied appellant's claim for COP finding that she was not entitled to it because she had alleged an occupational disease and not a traumatic injury. OWCP advised appellant that the denial of COP did not affect her entitlement to compensation, and that she could, therefore, file a claim for compensation (Form CA-7) for lost wages due to her accepted employment injury.

LEGAL PRECEDENT

An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.³ A traumatic injury means a condition of the body caused by a specific event or incident or a series of events or incidents, within a single workday or shift.⁴ Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of body.⁵

OWCP's regulations provide, in pertinent part, that to be eligible for continuation of pay, an employee must: (1) have a traumatic injury which is job related and the cause of the disability and/or the cause of lost time due to the need for medical examination and treatment; (2) file Form

³ 20 C.F.R. § 10.5(q).

⁴ *Id.* at § 10.5(ee).

⁵ *Id.*

CA-1 within 30 days of the date of the injury; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁶

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish entitlement to COP.

On November 27, 2018 appellant filed a traumatic injury claim alleging that on November 21, 2018 she developed right shoulder strain and right biceps tendinitis due to the duties of her modified position. The employing establishment controverted the claim noting that she had not been scheduled to work on November 21, 2018 and that this was not a claim for a traumatic injury. In response to questions posed by OWCP, appellant advised that her claim was for an occupational disease rather than a traumatic injury as her right shoulder conditions occurred over more than a single workday or shift.⁷

The Board finds that OWCP properly determined that appellant's claim was more appropriately classified as an occupational disease rather than a traumatic injury.⁸ Consequently, as appellant's claimed disability was not caused by a traumatic injury, she is not eligible for COP.⁹

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish entitlement to COP.

⁶ 20 C.F.R. § 10.205(a)(1-3); *see also* C.C., Docket No. 18-0912 (issued July 11, 2019); J.M., Docket No. 09-1563 (issued February 26, 2010).

⁷ *See supra* note 3.

⁸ *See* J.F., Docket No. 10-2134 (issued July 6, 2011).

⁹ *See id.*; *see also* C.C., Docket No. 18-0912 (issued July 11, 2019); J.V., Docket No. 15-0942 (issued March 8, 2016).

ORDER

IT IS HEREBY ORDERED THAT the January 14, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 17, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board